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Attorneys for Plaintiff  
McKESSON CORPORATION

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

McKESSON CORPORATION, a Delaware  
corporation,

Plaintiff,

v.

FAMILYMEDS GROUP, INC.,  
f/k/a Drugmax, Inc., a Connecticut corporation,

Defendant.

FAMILYMEDS GROUP, INC.,  
f/k/a Drugmax, Inc., a Connecticut corporation,

Counterclaimant,

v.

McKESSON CORPORATION, a Delaware  
corporation,

Counterdefendant.

FAMILYMEDS, INC.,  
a Connecticut corporation,

Cross-Complainant,

v.

McKESSON CORPORATION, a Delaware  
corporation,

Cross-Defendant.

Case No.4:07-cv-05715 WDB

**NOTICE OF WITHDRAWAL AND  
WITHDRAWAL OF MOTION TO  
DISMISS FILED AUGUST 19, 2008**

Complaint Filed: November 9, 2007

Cross-Complaint Filed: December 17, 2007

1 PLEASE TAKE NOTICE that, pursuant to Local Civil Rule 7-7(e), McKESSON  
2 CORPORATION ("McKesson") and D&K HEALTHCARE RESOURCES LLC ("D&K") hereby  
3 withdraw their "MOTION TO DISMISS COMPLAINT PURSUANT TO FRCP RULES 12(b)(1)  
4 and 12(b)(6)" (the "Motion") filed on August 19, 2008, in case 4:07-cv-05715-WDB, because  
5 McKesson and D&K inadvertently filed the Motion under the wrong case number via ECF causing  
6 this motion to mistakenly appear on the docket in this action. See Declaration of Robert C.  
7 Mardian III in Support of Notice to Withdraw and Withdrawal of Motion to Dismiss filed August  
8 19, 2008 ("Mardian Declaration") ¶7.

9 A party filing a motion may withdraw the motion as a matter of course at any time prior to  
10 the filing of an opposition to the motion and up until seven (7) days thereafter. Civil L.R. 7-7(e).  
11 Here, the Motion was filed on August 19, 2008, and no opposition to the motion has yet been filed.  
12 See Mardian Declaration ¶¶7,10. McKesson and D&K are therefore entitled to have the motion  
13 withdrawn and taken off calendar.

14 COUNSEL FOR FAMILYMEDS GROUP, INC., PLEASE TAKE NOTICE that the  
15 motion to dismiss in the related action, 4:08-cv-02850-WDB, REMAINS ON-CALENDAR and  
16 will be heard before Judge Brazil on October 29, 2008, at 3:00 p.m., in that action.

17  
18 DATED: August 20, 2008.

HENDERSON & CAVERLY LLP

19  
20  
21 By: 

Robert C. Mardian III  
Attorneys for McKesson Corporation

**PROOF OF SERVICE**

I am employed in the County of San Diego, California. I am over the age of 18 years and not a party to the within action. My business address is Henderson & Caverly LLP, P.O. Box 9144, 16236 San Dieguito Road, Suite 4-13, Rancho Santa Fe, California 92067.

On August 20, 2008, I served the foregoing:

**DECLARATION OF ROBERT C. MARDIAN III IN SUPPORT OF NOTICE OF WITHDRAWAL AND WITHDRAWAL OF MOTION TO DISMISS FILED AUGUST 19, 2008; AND**

**NOTICE OF WITHDRAWAL AND WITHDRAWAL OF MOTION TO DISMISS FILED AUGUST 19, 2008**

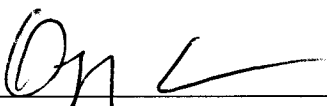
on the following parties in this action in the manner set forth below:

Robert C. Gebhardt, Esq.  
Jeffer, Mangels, Butler & Marmaro LLP  
Two Embarcadero Center, Fifth Floor  
San Francisco, California 94111-3824

- ☐ (BY MAIL) I placed each such sealed envelope, with postage thereon fully prepaid for first-class mail, for collection and mailing at Henderson & Caverly LLP, Rancho Santa Fe, California, following ordinary business practices. I am familiar with the practice of Henderson & Caverly LLP for collection and processing of correspondence, said practice being that in the ordinary course of business, correspondence is deposited in the United States Postal service the same day as it is placed for collection.
- ☒ (BY EMAIL) I electronically filed such document using the ("CM/ECF") system which will send a Notice Of Electronic Filing to CM/ECF participants.
- ☐ (BY FACSIMILE) I transmitted the above-listed document to the party listed above via facsimile. The transmission was reported complete and without error. The telephone number of the facsimile machine I used was (858) 756-4732.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed at Rancho Santa Fe, California on August 20, 2008.

  
\_\_\_\_\_  
Quynh N. Nguyen